

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

APPLICATION OF BIG RIVERS)
ELECTRIC CORPORATION) CASE NO. 7990

AMENDED ORDER NUMBER 3 AUTHORIZING BIG RIVERS
ELECTRIC CORPORATION'S BORROWING OF PROCEEDS OF
UP TO \$77,500,000 COUNTY OF OHIO, KENTUCKY,
POLLUTION CONTROL FLOATING RATE DEMAND BONDS,
SERIES 1983, (BIG RIVERS ELECTRIC CORPORATION PROJECT)
AND EXECUTION OF DOCUMENTS EVIDENCING SUCH LOAN

O R D E R

On consideration of Big Rivers' motion as amended to enter Amended Order Number 3 tendered therewith, and the evidence in support thereof, the Commission finds that:

1. By Order dated November 13, 1980, the Commission authorized Big Rivers Electric Corporation ("Big Rivers") to borrow \$1,110,740,000 from the Federal Financing Bank (FFB) under a guaranty by the Rural Electrification Administration ("REA") to construct the D. B. Wilson Generating Station Units 1 and 2, and appurtenant equipment, in Ohio County, Kentucky, and to execute notes, mortgages and loan contracts evidencing and securing such debt. FFB has agreed to lend Big Rivers up to \$669,917,000 of such sum for construction of Unit 1, and appurtenant equipment. Construction of Unit 1 is now approximately 70 percent completed; construction of Unit 2 has been postponed indefinitely.

2. By amendment to the November 13, 1980, Order dated October 6, 1982, the Commission authorized Big Rivers to use an alternative method of financing the pollution control facilities for Unit 1 by borrowing up to \$160,000,000 from County of Ohio, Kentucky, ("Ohio County") from the proceeds of sales by such county of its pollution control bonds issued pursuant to KRS 103.200 through 103.285, money thus borrowed from Ohio County to reduce pro tanto the amount to be borrowed by Big Rivers from the FFB.

3. By Amended Order Number 2 dated the 19th day of November, 1982, the Commission authorized Big Rivers to borrow the proceeds of \$82,500,000 County of Ohio, Kentucky, 7 1/4 percent Pollution Control Interim Bonds, Series 1982, (Big Rivers Electric Corporation Project) of the \$160,000,000 authorized to be borrowed from Ohio County. Big Rivers was unable to obtain a Letter of Credit to secure payment of the \$160,000,000 authorized by the October 6, 1982, Order and thus borrowed only \$82,500,000. It now has obtained a Letter of Credit from Irving Trust Company to secure the balance of the \$160,000,000 for the cost of certain air and water pollution control and sewage and solid waste disposal facilities ("the Facilities") under the following plan ("Financing Plan"):

A. Ohio County will use and sell its Pollution Control Floating Rate Demand Bonds, Series 1983, (Big Rivers Electric Corporation Project) (the "Bonds") in the aggregate principal

amount of not to exceed \$77,500,000 pursuant to KRS 103.200 through 103.285, inclusive (the "Act") and Big Rivers will borrow from Ohio County the net proceeds of the said Bonds. Big Rivers will execute and deliver a Promissory Note payable to the order of Ohio County in an amount and upon such terms as are required by Ohio County to pay the principal and interest on the Bonds.

B. The Bonds shall bear interest at a floating rate which shall be the lesser of 13 percent per annum, the maximum rate permitted under the laws of the Commonwealth of Kentucky and a rate determined by the Remarketing Agent and approved by Big Rivers, to be that rate which would be necessary to remarket the Bonds in a secondary market transaction at par, but which shall not be less than 40 percent nor more than 80 percent of the interest rate applicable to 13-Week United States Treasury Bills as determined by the United States Treasury auction of such Bills next preceding the applicable Interest Calculation Date.

C. The Bonds will mature on June 1, 2013, or upon demand, or as otherwise provided in the Trust Indenture, and interest thereon shall be payable semi-annually on each June 1 and December 1. The Bonds will be subject to optional redemption on any interest payment date without premium or penalty, and to mandatory redemption as provided in the Trust Indenture.

D. Continental Illinois National Bank and Trust Company of Chicago will be the Remarketing Agent for initial sales of the Bonds, and for resales of Bonds as demanded by Bond Purchasers.

It will receive a one-time fee of 0.25 percent of the face of the Bonds plus an ongoing annual marketing fee of 0.125 percent as Remarketing Agent and an initial fee of \$10,000 together with an annual Administrative Fee of \$50 per \$1 million principal of Bonds outstanding for its service as Trustee, and Registration and Paying Agent Fees as listed in its published schedule.

E. Big Rivers will purchase from Irving Trust Company and deliver to the Trustee concurrently with the issuance of the Bonds by the County an irrevocable transferable Letter of Credit in the amount of the aggregate principal of the Bonds plus 7 months' interest thereon for which Big Rivers shall pay Irving Trust Company a one-time fee of 0.25 percent of the maximum amount available for drawing under the Letter of Credit on the date of its issue and an ongoing annual fee of 0.625 percent of the amount available to be drawn under the Letter of Credit from time to time. This Letter of Credit will secure payment by Big Rivers of its debt to Ohio County and of Ohio County's debt to the Bond Holders.

Big Rivers will also enter into a Pledge and Security Agreement with Irving Trust Company.

F. The law firm of MAYER, BROWN & PLATT of Chicago, Illinois, will act as Bond Counsel.

G. Big Rivers will pay its Promissory Note to Ohio County together with interest thereon from its earnings, from the drawing under the Letter of Credit, from proceeds of resales of

the Bonds, from the FFB Commitment, or as otherwise approved by the Commission, depending upon the terms and conditions prevailing at the time the Bonds are payable.

H. Ohio County and Big Rivers will enter into a Financing and Loan Agreement dated as of June 1, 1983.

I. Big Rivers will enter into a Reimbursement Agreement with Irving Trust Company to reimburse it for any sums paid by it under the Letter of Credit.

J. Big Rivers will enter into a Remarketing Agreement with Continental Illinois National Bank and Trust Company of Chicago as Remarketing Agent in which the Remarketing Agent will undertake to sell and resell the Bonds as therein provided.

K. Big Rivers will enter into one or more Purchase Contracts with Ohio County and one or more institutional purchasers of the Bonds providing for the sale of the Bonds to such purchasers, on terms satisfactory to Big Rivers. Big Rivers will also execute a Private Placement Memorandum for use by the Remarketing Agent in selling the Bonds.

L. Ohio County will enter into a Trust Indenture with Continental Illinois National Bank and Trust Company of Chicago as Trustee.

M. Big Rivers will execute all other agreements, documents, instruments, certificates or other papers and will do all other acts and things necessary or desirable to carry out the terms and conditions of the Financing Plan.

4. As of June 3, 1983, the 2-year FFB rate was 9.961 percent, the 4-year rate was 10.341 percent and the 35-year rate was 10.984 percent. As of June 6, 1983, the 13-Week Treasury Bills sold at 8.98 percent. Big Rivers believes the Bonds can be sold at an initial interest rate of approximately 5.84 percent per annum; that Big Rivers' total annual financing cost will be less than 1 percent; and that Big Rivers can reasonably anticipate an annual saving in interest costs of approximately 3.12 percent to 3.5 percent against the FFB short-term rate, and a savings of approximately 4.144 percent against the FFB 35-year rate. Demand for electricity generated by Big Rivers is low because of depression in the aluminum industry which provides a market for the greater part of Big Rivers' generation capacity. Big Rivers is advised, and believes, that the Financing Plan as herein described is the best now available. In no event will Big Rivers pay a higher interest rate under the proposed Financing Plan than would be available to it through the FFB and the REA.

5. Consummation of the Financing Plan will be subject to the conditions precedent that the Financing Plan has been approved by the REA and The Louisville Bank for Cooperatives, both lien creditors of Big Rivers.

6. After investigation of the purposes and uses of the proposed issue, and the proceeds thereof, the Commission finds that such issue is for a lawful object within the corporate purposes of the utility, is necessary or appropriate for or

consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED THAT:

1. The Financing Plan as outlined herein be and it hereby is approved;

2. Big Rivers be and it hereby is authorized to execute and deliver all of the documents described in the Financing Plan, including but not limited to, a Promissory Note payable to County of Ohio, Kentucky, in an amount sufficient to pay, when due, the principal and interest on the County of Ohio Pollution Control Floating Rate Demand Bonds, Series 1983, (Big Rivers Electric Corporation Project), a Financing and Loan Agreement with County of Ohio, Kentucky, a Reimbursement Agreement and a Pledge and Security Agreement with Irving Trust Company by which Big Rivers Electric Corporation agrees to reimburse Irving Trust Company for any amounts paid by Irving Trust Company under its Letter of Credit, a Remarketing Agreement with Continental Illinois National Bank and Trust Company of Chicago as Remarketing Agent, in which the Remarketing Agent will undertake to sell the Bonds as therein provided, one or more Bond Purchase Contracts with County of Ohio, Kentucky, and one or more institutional purchasers of the Bonds providing for the sale of the Bonds to

such purchasers and a Private Placement Memorandum for use in selling the Bonds.

3. Big Rivers is further authorized to execute and deliver any and all other documents necessary or convenient to the consummation of the Financing Plan, and to do all acts and things as may be necessary or desirable or convenient to carry out the Financing Plan and the documents described herein.

4. The Promissory Note executed and delivered by Big Rivers Electric Corporation to County of Ohio, Kentucky, shall not exceed the total principal sum of \$77,500,000 and such note and the proceeds thereof shall be used only for the lawful purposes specified in the Application and the Motions herein which said purposes shall include payment of the cost of a portion of the air and water pollution control and sewage and solid waste disposal facilities at Big Rivers Electric Corporation's D. B. Wilson Plant, Unit #1, now under construction in the County of Ohio, near Centertown, Kentucky, and related purposes as defined and permitted by Sections 103.246 and 103.240, and related sections of the Kentucky Revised Statutes.

5. Within 45 days after the sale of up to \$77,500,000 of the County of Ohio, Kentucky, Pollution Control Floating Rate Demand Bonds, Series 1983, (Big Rivers Electric Corporation Project) Big Rivers Electric Corporation shall furnish the Commission with a copy of the completed documents setting forth the bond sale and transfer of funds, the gross price paid by the

purchasers, the amount borrowed by Big Rivers Electric Corporation, and a listing of all expenses incurred in such financing.

6. Nothing contained in this Order shall be construed as a finding of value for any purpose, or as a warranty on the part of the Commonwealth of Kentucky, or any agency thereof.


7. The Commission's Orders of November 13, 1980, October 6, 1982, and November 19, 1982, herein shall remain in full force and effect except to the extent of any conflict with this Order.

Done at Frankfort, Kentucky, this 29th day of June, 1983.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary